

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2039

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-540.01, Arizona Revised Statutes, is amended to  
3 read:

4 36-540.01. Conditional outpatient treatment

5 A. The medical director may issue an order for conditional outpatient  
6 treatment for a patient ordered to undergo treatment pursuant to section  
7 36-540 if, after consultation with staff familiar with the patient's case  
8 history, the medical director determines with a reasonable degree of medical  
9 probability that all of the following apply:

10 1. The patient no longer requires continuous inpatient  
11 hospitalization.

12 2. The patient will be more appropriately treated in an outpatient  
13 treatment program.

14 3. The patient will follow a prescribed outpatient treatment plan.

15 4. The patient will not likely become dangerous, suffer more serious  
16 physical harm or serious illness or further deteriorate if the patient  
17 follows a prescribed outpatient treatment plan.

18 B. The order for conditional outpatient treatment issued by the  
19 medical director shall include a written outpatient treatment plan prepared  
20 by staff familiar with the patient's case history and approved by the medical  
21 director. The plan shall include all of the following:

22 1. A statement of the patient's requirements, if any, for supervision,  
23 medication and assistance in obtaining basic needs such as employment, food,  
24 clothing or shelter.

1           2. The address of the residence where the patient is to live and the  
2           name of the person in charge of the residence, if any.

3           3. The name and address of any person, agency or organization assigned  
4           to supervise an outpatient treatment plan or care for the patient, and the  
5           extent of authority of the person, agency or organization in carrying out the  
6           terms of the plan.

7           4. The conditions for continued outpatient treatment, which may  
8           require periodic reporting, continuation of medication and submission to  
9           testing, and may restrict travel, consumption of spirituous liquor and drugs,  
10          associations with others and incurrence of debts and obligations or such  
11          other reasonable conditions as the medical director may specify.

12          C. Before release for conditional outpatient treatment, the patient  
13          shall be provided with copies and full explanations of the medical director's  
14          order and the treatment plan. If, after full explanation, the patient  
15          objects to the plan or any part of it, the objection and reasons for the  
16          objection shall be noted in the patient's record. The medical director's  
17          order and treatment plan shall be filed in the patient's medical file and  
18          shall also be filed with the court.

19          D. The period for which conditional outpatient treatment may be  
20          ordered may not exceed the remainder of the period of court ordered  
21          treatment.

22          E. Before the release of a patient found to be a danger to others for  
23          outpatient treatment, the medical director shall give notice pursuant to  
24          section 36-541.01, subsection B, and a motion for a determination by the  
25          court as to whether the standard for conditional release of the patient has  
26          been met may be made by the persons and in the manner provided for in section  
27          36-541.01, subsection ~~G~~ H. Before the release of a person found to be a  
28          danger to self, to be persistently or acutely disabled or to be gravely  
29          disabled for outpatient treatment, the medical director shall give notice to  
30          the court that ordered the patient to undergo treatment. THE MEDICAL  
31          DIRECTOR SHALL NOTIFY THE PROSECUTING AGENCY'S OFFICE IF CRIMINAL CHARGES  
32          AGAINST A PATIENT ARE DISMISSED, IF A CIVIL COMMITMENT ORDER ISSUED PURSUANT

1 TO THIS CHAPTER EXPIRES, IS TERMINATED OR IS DENIED OR IF THE PATIENT IS  
2 DISCHARGED TO OUTPATIENT TREATMENT. THE MEDICAL DIRECTOR SHALL PROVIDE THIS  
3 NOTICE BY MAIL, POSTAGE PREPAID, AT LEAST TEN DAYS BEFORE THE ANTICIPATED  
4 DATE OF THE EXPIRATION, TERMINATION OR DISCHARGE AND AS SOON AS REASONABLY  
5 POSSIBLE AFTER A PETITION IS DENIED. THE TEN DAY NOTICE REQUIREMENT BEGINS  
6 THE DAY AFTER THE NOTICE IS MAILED.

7 F. The medical director shall require periodic reports concerning the  
8 condition of patients on conditional outpatient treatment from any person,  
9 agency or organization assigned to supervise an outpatient treatment plan.  
10 ~~SUCH THE MEDICAL DIRECTOR SHALL REQUIRE THESE~~ reports ~~shall be required~~ at  
11 intervals not to exceed thirty days.

12 G. The medical director shall review the condition of a patient on  
13 conditional outpatient treatment at least once every thirty days and enter  
14 the findings in writing in the patient's file. In conducting the review, the  
15 medical director shall consider all reports and information received and may  
16 require the patient to report for further evaluation.

17 H. The medical director may amend any part of the outpatient treatment  
18 plan during the course of conditional outpatient treatment. If the plan is  
19 amended, the medical director shall issue a new order including the amended  
20 outpatient treatment plan. The new order and amended outpatient treatment  
21 plan shall be filed in the patient's medical file. Copies of the new order  
22 and outpatient treatment plan shall be immediately provided to the patient  
23 and to any person, agency or organization assigned to supervise an outpatient  
24 treatment plan. Copies of the new order and outpatient treatment plan shall  
25 be immediately filed with the court.

26 I. The medical director may rescind an order for conditional  
27 outpatient treatment and order the patient to return to a mental health  
28 treatment agency at any time during the period of court ordered treatment if,  
29 in the medical director's judgment, the patient has failed to comply with a  
30 term of the outpatient treatment plan or if, for any reason, the medical  
31 director determines that the patient needs inpatient treatment or that  
32 conditional outpatient treatment is no longer appropriate.

1               J. If the medical director rescinds an order for conditional  
2 outpatient treatment and the patient is returned to a mental health treatment  
3 agency for inpatient treatment, the patient shall be informed of the  
4 patient's right to judicial review and right to consult with counsel pursuant  
5 to section 36-546.

6               K. If the medical director rescinds an order for conditional  
7 outpatient treatment and orders the patient to return to a mental health  
8 treatment agency, the medical director may request a peace officer or a  
9 designated officer or employee of the treatment agency to take the patient  
10 into custody for immediate delivery to the agency pursuant to section 36-544.

11              L. The medical director is not civilly liable for any act committed by  
12 a patient while on conditional outpatient treatment if the medical director  
13 has in good faith followed the requirements of this section.

14              M. This section does not prevent the medical director from authorizing  
15 a patient ordered to undergo treatment pursuant to section 36-540 as a danger  
16 to self, a danger to others, persistently or acutely disabled or gravely  
17 disabled to leave the treatment agency for periods of no more than five days  
18 under the care, custody and control of a spouse, relative or other  
19 responsible person if the medical director determines that the patient will  
20 not become dangerous or suffer serious physical harm or illness during that  
21 time.

22              N. The medical director may authorize a patient who is civilly  
23 committed pursuant to section 36-540 to leave the state hospital grounds  
24 unaccompanied if the leave is part of an inpatient individualized treatment  
25 and discharge plan, ~~—~~ and ~~if~~ the medical director determines that the patient  
26 will not become dangerous or suffer serious physical harm or illness during  
27 that time.

28              Sec. 2. Section 36-541.01, Arizona Revised Statutes, is amended to  
29 read:

30              36-541.01. Release or discharge from treatment before  
31 expiration of period ordered by court; notification  
32 of intent to release or discharge; hearing

1           A. A patient ordered to undergo treatment pursuant to this article may  
2 be released from treatment ~~prior to~~ BEFORE the expiration of the period  
3 ordered by the court if, in the opinion of the medical director of the mental  
4 health treatment agency, the patient no longer is, as a result of a mental  
5 disorder, a danger to others, a danger to self, persistently or acutely  
6 disabled or gravely disabled. No person ordered to undergo treatment as a  
7 danger to others may be released or discharged from treatment ~~prior to~~ BEFORE  
8 the expiration of the period for treatment ordered by the court unless the  
9 medical director first gives notice of intention to do so as provided by this  
10 section.

11           B. ~~Prior to~~ BEFORE the release or discharge of a patient ordered to  
12 undergo treatment as a danger to others, the medical director of the mental  
13 health treatment agency shall ~~give notice of his~~ NOTIFY THE FOLLOWING OF THE  
14 MEDICAL DIRECTOR'S intention to release or discharge the patient: ~~—Notice~~  
15 ~~shall be given to~~

16           1. The presiding judge of the court ~~which~~ THAT entered the order for  
17 treatment. —

18           2. Any relative or victim of the patient who has filed a demand for  
19 notice with the treatment agency and any person found by the court to have a  
20 legitimate reason for receiving ~~such~~ notice.

21           C. THE MEDICAL DIRECTOR SHALL NOTIFY THE PROSECUTING AGENCY'S OFFICE  
22 IF CRIMINAL CHARGES AGAINST A PATIENT ARE DISMISSED, IF A CIVIL COMMITMENT  
23 ORDER ISSUED PURSUANT TO THIS CHAPTER EXPIRES, IS TERMINATED OR IS DENIED OR  
24 IF THE PATIENT IS DISCHARGED TO OUTPATIENT TREATMENT. THE MEDICAL DIRECTOR  
25 SHALL PROVIDE THIS NOTICE BY MAIL, POSTAGE PREPAID, AT LEAST TEN DAYS BEFORE  
26 THE ANTICIPATED DATE OF THE EXPIRATION, TERMINATION OR DISCHARGE AND AS SOON  
27 AS REASONABLY POSSIBLE AFTER A PETITION IS DENIED. THE TEN DAY NOTICE  
28 REQUIREMENT BEGINS THE DAY AFTER THE NOTICE IS MAILED.

29           C. D. If the director of the mental health treatment agency is unable  
30 to determine, based ~~upon~~ ON the information submitted pursuant to subsection  
31 ~~D—E~~, that a person who has filed a demand for notice is a victim ~~he~~ THE  
32 MEDICAL DIRECTOR shall inform that person that ~~his~~ THE PERSON'S demand for

1 notice is denied and that notice will not be given unless ordered by the  
2 court pursuant to subsection E—F.

3 ~~D.~~ E. A demand for notice by a relative or victim, and a petition for  
4 notice by other persons, shall be on a form prescribed by the department and  
5 shall include the following information:

- 6 1. The full name of the person to receive notice.
- 7 2. The address to which notice is to be mailed.
- 8 3. The telephone number of the person to receive notice.

9 4. The relationship to the patient, if any, or the reasons why the  
10 person believes ~~he~~ THE PERSON has a legitimate reason to receive notice.

11 5. A statement that the person will advise the treatment agency in  
12 writing by certified mail, return receipt requested, of any change in the  
13 address to which notice is to be mailed.

14 6. The full name of the patient ordered to undergo treatment as a  
15 danger to others.

16 7. The mental health number assigned to the case by the superior  
17 court.

18 ~~E.~~ F. If the court receives a demand for notice by a relative or  
19 victim, the court shall order the medical director of the mental health  
20 treatment agency not to release or discharge the patient before the  
21 expiration of the period of court-ordered treatment without first giving  
22 notice to the relative or victim as provided in subsection F—G. After  
23 considering a petition for notice, if the court finds that the petitioner has  
24 a legitimate reason for receiving prior notice, the court may order the  
25 medical director of the mental health treatment agency not to release or  
26 discharge the patient from inpatient treatment before the expiration of the  
27 period of court-ordered treatment without first giving notice to the  
28 petitioner as provided in subsection F—G. Any order for notice shall be  
29 delivered to the mental health treatment agency and shall be filed with the  
30 patient's clinical record. If the patient is transferred to another agency  
31 or institution, any orders for notice shall be transferred with the patient.

1           F. G. A notice of intention to release or discharge shall include the  
2 following information:

3           1. The name of the patient to be released or discharged.

4           2. The type of release or discharge.

5           3. The date of anticipated release or discharge. Notices shall be  
6 placed in the mail, postage prepaid and addressed to the court and to each  
7 person for whom notice has been ordered, at least ten days before the date of  
8 intended release or discharge. For THE purposes of computing the ten-day  
9 notice requirement, the day of mailing shall not be counted.

10          G. H. Any person for whom prior notice is required pursuant to this  
11 section, or the court, may make a motion within the ten-day notification  
12 period ~~which THAT~~ requires the court to determine whether the standard for  
13 release of the patient ~~prior to~~ BEFORE the expiration of the period for  
14 court-ordered treatment has been met. A determination that the standard for  
15 release has been met may be made by the court based on a review of the record  
16 and any affidavits submitted without further hearing. For good cause, the  
17 court may order an evidentiary hearing. Whether or not a hearing is held,  
18 the court shall make a determination at the earliest possible time but no  
19 longer than three weeks after the anticipated date of release pursuant to  
20 subsection F G, and the patient shall be retained for the additional time  
21 required for the court's determination. In making its determination the  
22 court may order an independent examination of the patient. If no motion is  
23 made, the patient may be released in accordance with the terms set forth in  
24 the notice without further court order.

25          H. I. If no motion has been made pursuant to subsection G H, the  
26 patient may be released or discharged and the medical director of the mental  
27 health treatment agency shall send to the court a certificate that the  
28 patient is no longer a danger to others, a danger to self, persistently or  
29 acutely disabled or gravely disabled as the result of a mental disorder and  
30 therefore is released ~~prior to~~ BEFORE the expiration of the period ordered  
31 for treatment. The court shall enter an order terminating the patient's  
32 court-ordered treatment.

1           **I.** J. The medical director of the mental health treatment agency  
2        ~~shall~~ IS not ~~be held~~ civilly liable for any acts committed by a patient  
3        released ~~prior to~~ BEFORE the expiration of the period of court-ordered  
4        treatment if the medical director has in good faith followed the requirements  
5        of this section."

6 Amend title to conform

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02/16/2009  
2:30 PM  
C: jcs